

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BENTELER AUTOMOTIVE CORP.
Employer

and

Case 25-RC-135839

CHAUFFEURS, TEAMSTERS AND HELPERS
LOCAL UNION NO. 364, AFFILIATED WITH THE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Petitioner

ORDER

The Petitioner's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

Dated, Washington, D.C., November 25, 2014.

¹ In denying review, we find no merit in the Petitioner's contention that, having found the petitioned-for unit inappropriate, the Regional Director was required to direct an election in a unit of technical employees. The Petitioner now concedes that its petitioned-for unit was inappropriate, and the Petitioner does not dispute that the unit proposed by the Employer—the same unit in which the RD directed an election—is an appropriate unit. As such, the Regional Director's direction of an election in the unit proposed by the Employer is consistent with well-established precedent. See *P.J. Dick Contracting*, 290 NLRB 150, 151 (1988) (“[i]f the union's proposed unit is inappropriate, the employer's proposals are then scrutinized”). Contrary to the Petitioner, *Vickers, Inc.*, 124 NLRB 1051 (1959), in which the Board found appropriate a unit comprised of the employer's technical employees, does not apply because it is not clear from the record and the post-hearing Petitioner's brief that it alternatively sought to represent a unit of all the Employer's technical employees. Rather, it appears that the Petitioner has raised this contention for the first time in its Request for Review, and after it specifically agreed at the hearing to proceed to an election in a larger unit. See Board's Rules & Regulations Sec. 102.67(d). We further note that no party contends that the Regional Director otherwise improperly applied the framework set forth in *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), *enfd. sub nom. Kindred Nursing Centers East, LLC*, 727 F.3d 552 (6th Cir. 2013). Member Miscimarra agrees with the denial of review, but would apply traditional community of interest standards, and not *Specialty Healthcare*, for the reasons stated in *Macy's, Inc.*, 361 NLRB No. 4, slip op. at 22, 31-32 (2014) (Member Miscimarra, dissenting).